

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF RHODE ISLAND**

FILED
2013 JUL 25 P 2:55
U.S. DISTRICT COURT
DISTRICT OF RHODE ISLAND

IRVIN J. ALCINDOR
Plaintiff

VS.

DKT. NO.

WELLS FARGO HOME MORTGAGE
Defendant

CA 13- 559

And AMERICA'S SERVICING COMPANY
Defendant

PETITION FOR TEMPORARY RESTRAINING ORDER

Now comes the Plaintiff, Irvin Alcindor, and, pending a preliminary hearing on the merits, moves this Honorable Court to issue a temporary restraining order and injunction, the effect of which will prevent the Defendant, Wells Fargo Home Loans and its agent America's Servicing Company from conducting a foreclosure on the subject property located at 160 North Bend Street, Pawtucket, Rhode Island.

As grounds therefore, the Plaintiff avers as follows:

1. The Plaintiff, Irvin J Alcindor, is a resident of Pawtucket, Rhode Island.
2. The Defendant, Wells Fargo Home Mortgages, (WFHL) upon information and belief, is a foreign corporation licensed to do business in the State of Rhode Island.
3. The Plaintiff is the owner of certain improved real estate known as 160 North Bend Street, Pawtucket, Rhode Island (herein after referred to as the subject property").
4. The Defendant, America's Servicing Company (ASC) is a loan serving company.
5. The Defendant is Foreclosing on the subject property.
6. The Defendant is in the process of foreclosing on the Plaintiff's Mortgage on July 26, 2013 at 1:00 p.m.


7. The Defendant has no standing to foreclose.
8. No Assignment of record exists to invoke a statutory power of sale in favor of the defendant.
(See Affidavit of Title Examiner Ronald Gauthier)
9. The mortgage holder of record is The Bank of New York Mellon.
10. The Plaintiff will suffer irreparable harm, damage, and injury if the Defendant is not enjoined and restrained from conducting the foreclosure.
11. The Plaintiff has no adequate remedy at law.
12. The equities of the controversy militate in favor of the Plaintiff.
13. There is a reasonable likelihood that the Plaintiff will be successful on the merits of this matter.

WHEREFORE, the Plaintiff prays for the following relief:

- A. That a temporary restraining order be issued to restrain the Defendant, its servants and employees, from foreclosing on the subject property; and
- B. Grant the Plaintiff such other and further relief as this Honorable Court shall deem meet and just.

Plaintiff,
By His/her Attorney,

Robert F. McNelis, Esq.



Robert F. McNelis, Esquire (#8361)
715 Branch Ave
Providence, RI 02904
(401)726-9200

CERTIFICATION

I, Robert F. McNelis, Attorney in the above entitled matter, do hereby certify that I have faxed and e-mailed a true copy of the above Petition for Temporary Restraining order to **Peter Lawton, Esq.**, the **Marinosci Law Group** via fax **401-541-3813** and email **plawton@mlg-defaultlaw.com** on this 25 day of July 2013.

